

Senate Bill 372

By: Senators Reed of the 35th, Unterman of the 45th, Johnson of the 1st, Shafer of the 48th
and Hooks of the 14th

AS PASSED SENATE**A BILL TO BE ENTITLED****AN ACT**

To amend Chapter 5 of Title 21, Title 28, and Title 36 of the Official Code of Georgia Annotated, relating to ethics in government, the General Assembly, and local government, respectively, so as to provide for ethical reforms; to provide for lobbyist training; to eliminate the requirement that candidates for the General Assembly file copies of their campaign disclosure reports with the election superintendent of the county of such candidate's residence in addition to the State Ethics Commission; to change a definition; to provide for expanded lobbyist disclosure; to change certain provisions relating to lobbyist disclosure reports; to require lobbyist training; to provide for the establishment of ethics panels by elected local governing bodies of counties and municipalities and local school systems; to provide for establishment of ethics panels by ordinance or resolution; to provide for minimum jurisdiction, standards, and procedures; to provide for compulsory process; to provide for practice and procedure and appeals; to provide for sovereign immunity; to provide for reporting of compliance and withholding of state funds for noncompliance; to provide for civil remedies and penalties to be imposed by the State Ethics Commission in the case of nonperformance of duties by a local ethics commission; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Chapter 5 of Title 21 of the Official Code of Georgia Annotated, relating to ethics in government, is amended by revising subsection (b) of Code Section 21-5-6, relating to the powers and duties of the State Ethics Commission, by striking "and" at the end of paragraph (21), replacing the period at the end of paragraph (22) with "; and", and adding a new paragraph to read as follows:

"(23) To provide and conduct, at least semiannually, training on the duties and responsibilities of lobbyists and the mechanics of filing and registration and to approve curriculum for other organizations or entities to provide such training."

SECTION 2.

Said chapter is further amended by revising subparagraph (a)(1)(A) of Code Section 21-5-34, relating to disclosure reports, as follows:

"(a)(1)(A) The candidate or the chairperson or treasurer of each campaign committee organized to bring about the nomination or election of a candidate for any office except county and municipal offices ~~or the General Assembly~~ and the chairperson or treasurer of every campaign committee designed to bring about the recall of a public officer or to oppose the recall of a public officer or designed to bring about the approval or rejection by the voters of any proposed constitutional amendment, state-wide proposed question, or state-wide referendum shall sign and file with the commission the required campaign contribution disclosure reports. ~~A candidate for membership in the General Assembly or the chairperson or treasurer of such candidate's campaign committee shall file such candidate's reports with the commission and a copy of such report with the election superintendent of the county of such candidate's residence.~~"

SECTION 3.

Said chapter is further amended by revising paragraph (5) of Code Section 21-5-70, relating to the definitions for public officials conduct and lobbyist disclosure, as follows:

"(5) 'Lobbyist' means:

(A) Any natural person who, for compensation, either individually or as an employee of another person, ~~undertakes to promote or oppose~~ promotes or opposes the passage of any legislation by the General Assembly, or any committee thereof, or the approval or veto of legislation by the Governor;

(B) Any natural person who makes a total expenditure of more than \$250.00 in a calendar year, not including the person's own travel, food, lodging expenses, or informational material to promote or oppose the passage of any legislation by the General Assembly, or any committee thereof, or the approval or veto of legislation by the Governor;

(C) Any natural person who as an employee of the executive branch or judicial branch of state government engages in any activity covered under subparagraph (A) of this paragraph;

(D) Any natural person who, for compensation, either individually or as an employee of another person, ~~undertakes to promote or oppose~~ promotes or opposes the passage of any ordinance or resolution by a public officer specified under subparagraph (F) or (G) of paragraph (22) of Code Section 21-5-3, or any committee of such public officers, or the approval or veto of any such ordinance or resolution;

(E) Any natural person who makes a total expenditure of more than \$250.00 in a calendar year, not including the person's own travel, food, lodging expenses, or informational material to promote or oppose the passage of any ordinance or resolution by a public officer specified under subparagraph (F) or (G) of paragraph (22) of Code Section 21-5-3, or any committee of such public officers, or the approval or veto of any such ordinance or resolution;

(F) Any natural person who as an employee of the executive branch or judicial branch of local government engages in any activity covered under subparagraph (D) of this paragraph;

(G) Any natural person who, for compensation, either individually or as an employee of another person is hired ~~specifically to undertake influencing~~ to influence a public officer or state agency in the selection of a vendor to supply any goods or services to any state agency but does not include any employee of the vendor solely on the basis that such employee participates in soliciting a bid or in preparing a written bid, written proposal, or other document relating to a potential sale to a state agency; ~~or~~

(H) Any natural person who, for compensation, either individually or as an employee of another person, is hired ~~specifically to undertake~~ to promote or oppose the passage of any rule or regulation of any state agency; or

(I) Any natural person who, for compensation, either individually or as an employee of another person, is hired by a person or entity other than a public officer or state agency to influence such public officer or state agency; provided, however, that such person shall not include an attorney hired to represent a party in an administrative proceeding."

SECTION 4.

Said chapter is further amended by revising subsections (b) and (c) of Code Section 21-5-71, relating to lobbyist registration requirements, the application for registration, supplemental registration, fees, identification cards, and exemptions, as follows:

"(b) Each lobbyist shall file an application for registration with the commission. The application shall be verified by the applicant and shall contain:

(1) The applicant's name, address, and telephone number;

(2) The name, address, and telephone number of the person or agency that employs, appoints, or authorizes the applicant to lobby on its behalf;

(3) A statement of the general business or purpose of each person, firm, corporation, association, or agency the applicant represents;

(4) If the applicant represents a membership group other than an agency or corporation, the general purpose and approximate number of members of the organization;

(5) A statement signed by the person or agency employing, appointing, or authorizing the applicant to lobby on its behalf;

(6) If the applicant is a lobbyist within the meaning of subparagraph (G), ~~or (H)~~, or (I) of paragraph (5) of Code Section 21-5-70, the name of the state agency or agencies before which the applicant engages in lobbying; ~~and~~

(7) A statement disclosing each individual or entity on whose behalf the applicant is registering if such individual or entity has agreed to pay him or her an amount exceeding \$10,000.00 in a calendar year for lobbying activities; and

(8) A statement verifying that the applicant has completed, within the past 12 months, the training course described in paragraph (23) of subsection (b) of Code Section 21-5-6.

(c) The lobbyist shall, within seven days of any substantial or material change or addition, file a supplemental registration indicating such substantial or material change or addition to the registration prior to its expiration. Previously filed information may be incorporated by reference. Substantial or material changes or additions shall include, but are not limited to, the pertinent information concerning changes or additions to client and employment information required by paragraphs (2), (3), (4), (6), ~~and (7)~~, and (8) of subsection (b) of this Code section."

SECTION 5.

Said chapter is further amended by revising subsection (d) of Code Section 21-5-73, relating to lobbyist disclosure reports, as follows:

"(d) A person who is a lobbyist pursuant to subparagraph (A), (B), (C), (F), (G), ~~or (H)~~, or (I) of paragraph (5) of Code Section 21-5-70 shall file a disclosure report, current through the end of the period ending on July 31 and December 31 of each year, on or before August 5 and January 5 of each year."

SECTION 6.

Title 36 of the Official Code of Georgia Annotated, relating to local government, is amended by adding a new chapter to read as follows:

"CHAPTER 94

36-94-1.

As used in this chapter, the term 'elected local governing body' means the elected governing authority of each county and municipality in this state and the elected board of education of each local school district in this state.

1 36-94-2.

2 Not later than January 1, 2009, each elected local governing body shall provide, by
3 appropriate ordinance or resolution, for the establishment and operation of an ethics panel;
4 provided, however, that any ordinance or resolution adopted by an elected local governing
5 body that sets forth a mechanism for the filing, review, and disposition of ethics complaints
6 prior to July 1, 2008, shall satisfy the requirements of this Code section. Such an ordinance
7 or resolution may be amended from time to time by the elected local governing body. The
8 membership and operation of the ethics panel shall be as established by the ordinance or
9 resolution, subject to the minimum requirements of this chapter.

10 36-94-3.

11 (a) Each ethics panel shall have regularly scheduled meetings at least once each calendar
12 quarter, but a scheduled meeting may be canceled if there is no pending complaint to be
13 reviewed by the ethics panel and no other business to come before the panel.

14 (b) Each ethics panel shall have jurisdiction to investigate citizen complaints of alleged
15 unethical conduct on the part of the members of the elected local governing body and each
16 ethics panel created by an elected county governing authority shall have jurisdiction to
17 investigate citizen complaints of alleged unethical conduct on the part of local
18 constitutional officers elected within the county. The enabling ordinance or resolution
19 may, but shall not be required to, grant to an ethics panel jurisdiction to investigate
20 complaints of alleged unethical conduct on the part of other officers, agents, and employees
21 of the elected local governing body.

22 (c) Each ethics panel shall have the power to issue subpoenas to compel the attendance and
23 testimony of witnesses and the production of evidence germane to its jurisdiction. Upon
24 application of an ethics panel, the superior court shall have jurisdiction to enforce a
25 subpoena issued by a panel by order of the court and punishment of disobedience of any
26 such order as contempt of court.

27 (d) Each elected local governing body and each ethics panel shall enjoy sovereign
28 immunity from liability for the acts or omissions of an ethics panel.

29 (e) Each ethics panel shall have such jurisdiction and powers as may be specified in the
30 enabling ordinance or resolution, including at a minimum the power to:

31 (1) Report any suspected violation of a state criminal statute or a local ordinance to the
32 appropriate prosecuting attorney;

33 (2) Report any suspected violation of a statute enforced by the State Ethics Commission
34 to the State Ethics Commission;

35 (3) Report any suspected disqualification from holding office to the appropriate officer
36 or agency having the power to fill the vacancy;

(4) Issue a public reprimand in any case in which it finds that a member of the elected local governing body has violated any general law, local law, ordinance, or policy of the elected local governing body and the violation relates to such officer's performance of his or her duties;

(5) Impose a civil penalty not to exceed \$1,000.00 per violation in any case in which it finds that a member of the elected local governing body has violated any general law, local law, ordinance, or policy of the elected local governing body and the violation relates to such officer's performance of his or her duties;

(6) Dismiss frivolous complaints;

(7) Require complainants to submit a signed affidavit with each complaint; and

(8) Impose a civil penalty of up to \$1,000.00 on complainants submitting frivolous complaints or complaints lacking an evidentiary basis.

36-94-4.

Any appeal from a decision of an ethics panel shall be by a de novo action in superior court.

36-94-5.

(a) Each elected local governing body other than a board of education shall report its compliance with the requirements of this chapter to the State Ethics Commission. In the event an affected local government fails to act in accordance with this chapter by January 1, 2009, the affected local government shall be ineligible for any state funds administered by the Department of Community Affairs until the noncompliance is cured.

(b) Each local board of education shall report its compliance with the requirements of this chapter to the Department of Education, in such manner as may be specified by the department, no later than January 1, 2009. In the case of noncompliance, the department shall withhold a portion of state funds otherwise payable to the affected local school system, as specified by the State Board of Education, until the noncompliance is cured.

36-94-6.

Any member or members of an ethics panel who willfully fail to provide a hearing on any complaint or otherwise willfully fail to carry out the duties of the ethics panel shall be subject to removal by the body appointing such panel member."

SECTION 7.

All laws and parts of laws in conflict with this Act are repealed.